

## **Exhibit A**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA, :

90-CR-1019

-against-

United States Courthouse  
Brooklyn, New York

ALEX WONG,

April 8, 2016  
12:00 p.m.

Defendant.

- - - - - X

TRANSCRIPT OF CRIMINAL CAUSE FOR RE-SENTENCING  
BEFORE THE HONORABLE RAYMOND J. DEARIE  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

For the Government: ROBERT L. CAPERS, ESQ.

United States Attorney  
Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, New York 11201

BY: DOUGLAS M. PRAVDA, ESQ.  
Assistant United States Attorney

For the Defendant: EPSTEIN & WEIL

225 Broadway  
Suite 1203  
New York, New York 10007

BY: LLOYD EPSTEIN, ESQ.

Court Reporter:

Marie Foley, RMR, CRR  
Official Court Reporter  
Telephone: (718) 613-2596  
Facsimile: (718) 613-2648  
E-mail: Marie\_Foley@nyed.uscourts.gov

Proceedings recorded by computerized stenography. Transcript  
produced by Computer-aided Transcription.

*Proceedings*

2

1 (In open court; defendant enters.)

2 COURTROOM DEPUTY: We are on this afternoon for a  
3 resentencing. This is USA versus Alex Wong, Docket No.  
4 90-CR-1019. I believe we're on Superseder 4. Mr. Wong is  
5 defendant number 9.

6 Can I ask the attorneys, please, to note their  
7 appearance beginning with counsel for government?

8 MR. PRAVDA: Good afternoon, Your Honor. Doug  
9 Pravda for the United States.

10 THE COURT: Good afternoon.

11 MR. EPSTEIN: Lloyd Epstein for Mr. Wong. Good  
12 afternoon, Your Honor.

13 THE COURT: Good afternoon.

14 Mr. Wong, good afternoon.

15 THE DEFENDANT: How are you doing, sir?

16 THE COURT: All right. Are we ready at long last to  
17 proceed?

18 MR. EPSTEIN: Yes.

19 THE COURT: All right. Mr. Wong, any number of  
20 papers that have been filed in connection with this  
21 resentencing, have you had a chance to review them with  
22 counsel?

23 THE DEFENDANT: Yes, I have.

24 THE COURT: And indeed there's been an addendum more  
25 recently filed by the Probation Department dated, I think,

*Proceedings*

3

1 just for the record, dated April 23rd, 2015. I received --

2 MR. EPSTEIN: Your Honor, I think it's April 23rd,  
3 2014?

4 COURTROOM DEPUTY: 2015.

5 MR. EPSTEIN: '15, correct. I'm losing track of the  
6 years.

7 THE COURT: I'm right and you're wrong?

8 MR. EPSTEIN: Yes, I'm definitely wrong and you're  
9 definitely right.

10 THE COURT: I like that.

11 I received, of course, any number of submissions  
12 from counsel. Mr. Epstein's lengthy submission of June 3rd,  
13 2015, with memorandum of law. I have received your letter,  
14 Mr. Wong. I received more recently Mr. Epstein's letter of  
15 April 5, 2016, the Government's letter of September 28, 2015,  
16 and most recently the Government's letter of April 6, 2016,  
17 covering letters from a number of family members associated  
18 with the victims of the crime, which I read with great  
19 earnest. They're quite something and perhaps in ways you  
20 would not anticipate.

21 Otherwise, I'm ready to proceed. Mr. Epstein, I  
22 turn it over to you.

23 MR. EPSTEIN: Thank you very, very much, Your Honor.

24 Your Honor, Mr. Pravda reminded me I also submitted  
25 a letter of October 1st, 2015, which contained Mr. Wong's work

## Proceedings

4

1 performance.

2 THE COURT: Yes, I have that as well.

3 MR. EPSTEIN: Your Honor, it's funny that I made a  
4 mistake on the date because this case has been going on for a  
5 long time. I first represented Mr. Wong in this courthouse,  
6 say, approximately 25 years ago. My hair was a little  
7 different then. Your hair was a little different then.

8 I was retained by Mr. Wong's aunt, who actually it  
9 turned out to be his mother, to represent him at sentencing  
10 and later on appeal, and when I stood before Judge Raggi at  
11 sentencing, I was representing a wild, impulsive, and quite  
12 violent teenager who had really done almost everything in his  
13 power to suppress and destroy a little boy inside who was  
14 crying for help.

15 I stand here today representing a middle-aged man  
16 who is profoundly ashamed and ruthlessly critical of himself  
17 for what he had done as a teenager. When I stood before Judge  
18 Raggi 25 years ago, it was in a courtroom that was empty of  
19 Mr. Wong's family. When he joined the Green Dragons as a 13  
20 year old, he really had no contact with his family over the  
21 next almost 15 years, and certainly at the time of trial, his  
22 family thought he was working in New Jersey at some job.  
23 Today, he has 15 people sitting here in the courtroom. I  
24 can't pronounce their names, they're almost all Chinese names,  
25 but I can tell you he has an aunt, two aunts, two uncles, and

*Proceedings*

5

1 a whole load of cousins who are sitting in the back of the  
2 courtroom.

3           When I began thinking about what I was going to say  
4 to the Court, I wanted to tell the Court that this is a case  
5 not only about pain, but it's also a case about hope; it's  
6 about hope that the Bureau of Prisons placed in Alex. When he  
7 was at Marion, they provided him programs. There was really  
8 no reason to think he would take advantage of them. It's  
9 about the love that his family provided him at a time that  
10 they really had no reason to believe he would ever be able to  
11 return anything to them.

12           I was hoping to tell the Court that it's not only a  
13 case about hope, a case about rehabilitation, and a case about  
14 redemption. And frankly, as of Tuesday, I had about a  
15 20-minute speech that I wanted to make to the Court. Then a  
16 few nights ago I received the letters from the families of the  
17 victims and I think I was very moved by them in many different  
18 ways, and I began to think about the statements made by  
19 Counselor Macintosh, who was Mr. Wong's counselor at New  
20 Canaan, who said that Mr. Wong is very, very different from  
21 the person who he anticipated meeting, that he anticipated  
22 meeting a hardened gang member and he met somebody who made it  
23 his business to actually make peace among the gangs. Then I  
24 realized when I read the letters that I've actually said  
25 everything that I can possibly say about Mr. Wong, that no one

*Proceedings*

6

1 really wants to hear what I have to say anymore, just like  
2 nobody really wants to hear what Dr. Goldstein or Dr.  
3 Steinberg has to say or Ms. Cahill, the mitigation specialist.  
4 I think all of us are in the position, really like Mr.  
5 Macintosh, I think everybody really wants to hear from Mr.  
6 Wong, and I'm hoping that the Court will take today's hearing  
7 as an opportunity not only to listen to Mr. Wong, but actually  
8 to engage him so the Court understands exactly who the Court  
9 is about to re-sentence.

10 I'm here to answer any questions that the Court may  
11 have during the proceeding. If the Government makes any  
12 arguments, and I don't anticipate they will, which I think are  
13 unfair, I hope for the opportunity to speak to them. But I  
14 feel that this proceeding is a little different and it really  
15 should be about Mr. Wong. And with that said, I'd like to ask  
16 for Mr. Wong to have an opportunity to speak.

17 THE COURT: Ordinarily at this point I hear from the  
18 Government.

19 MR. EPSTEIN: Or that is --

20 THE COURT: I'm happy to do that. Mr. Pravda?

21 MR. PRAVDA: Thank you, Your Honor.

22 I think it's important to start with the underlying  
23 crime because I know that the Court has heard the details in  
24 the Government's sentencing submission and I'm sure from its  
25 own review of the transcript, but I think it's important not

*Proceedings*

7

1 to lose sight of the underlying offense that brings us here  
2 today and particularly how it connects to the statements of  
3 the victims that the Court referenced earlier today.

4           So, in July of 1989 when Alex Wong was 16 years old  
5 and a member of the Green Dragons, the leader of the Green  
6 Dragons at that time, Chen I. Chung, ordered the murder of the  
7 manager of the Tien Chiau Restaurant because the manager had  
8 refused to pay extortion money. Mr. Wong volunteered to  
9 commit that murder as a way to prove himself to the group. He  
10 and another Green Dragon member, also a juvenile, named Joseph  
11 Wang went into the restaurant that night and they shot the  
12 manager of the restaurant nine times. It wasn't so much a  
13 murder as it was an execution. And following that, Your  
14 Honor, Mr. Wong turned his gun on the customers and the  
15 waiters at that restaurant trying to leave no witnesses  
16 behind. He shot Anthony Gallivan once in the heart; he died  
17 instantly. He shot Greg Hyde in the spine; Greg Hyde  
18 paralyzed from the waist down. He shot a waiter, Shih Chen  
19 Chen in the arm; the waiter was wounded, but survived.

20           Following that, Mr. Wong about a year later was  
21 arrested actually by the state, not on these charges, but on  
22 gun possession charges because he had a .25-caliber loaded  
23 firearm. While he was at Rikers, the state actually brought  
24 charges in connection with this murder before the federal  
25 government did, and Mr. Wong soon learned that the main



*Proceedings*

8

1 witness against him, the one eyewitness to the shooting who  
2 was able to identify him, was a woman named Carol Huang who  
3 was Greg Hyde's wife. Carol Huang picked him out of a lineup.  
4 Mr. Wong then spent the next five months while at Rikers  
5 Island desperately trying to find out information about Carol  
6 Huang's identity and desperately extorting his Green Dragons  
7 any number members to kill her so that she could not testify  
8 against him. He was captured on prison recordings making  
9 statements extorting them to kill her saying things like, "If  
10 she doesn't show up, I have a hundred percent chance of  
11 acquittal."

12           These tapes were played during the trial and Judge  
13 Raggi, who presided over the trial, commented at sentencing  
14 that, and Your Honor I'm quoting, this is actually on page 5  
15 of the Government's brief: "This is a case in which use of  
16 the word chilling is easy for the Court, but if there is  
17 evidence that was chilling in this case, it was listening to  
18 the tape-recordings of Wong urging his fellow Green Dragons  
19 members to kill Carol Huang for the simple reason that she  
20 could identify him as one of the people who committed murder  
21 in the restaurant that night."

22           And that, Your Honor, is something that was crucial  
23 to Judge Raggi when she decided at the time not to depart from  
24 the then-mandatory sentencing guideline recommendation of life  
25 imprisonment, and she specifically cited his willingness to

*Proceedings*

9

1 kill another human being, to take a third life in order to  
2 avoid any kind of punishment for his crimes.

3 Now, some of that conduct, Your Honor, the effort to  
4 kill Carol Huang happened after the defendant turned 18. Now,  
5 we're in a situation where Miller creates kind of an odd  
6 standard because it requires the Court to consider now the  
7 defendant's age and his level of maturity at the time of trial  
8 of the crime, and the reason it's weird is because we're not  
9 looking at him now, we're supposed to look at him back when he  
10 was 18 and decide based on the information that we now have is  
11 he somebody who, I guess, was a victim of the immaturity of  
12 youth or someone --

13 THE COURT: I would never use the word "victim" in  
14 this context, but I understand your point.

15 MR. PRAVDA: Thank you, Your Honor.

16 And so, the evidence that we have to look to is  
17 actually fairly limited, but it consists of his prison record.  
18 I just want to go through that for the Court a little bit. I  
19 did this in my sentencing submission, but I think it's worth  
20 emphasizing because this is among, quite frankly, one of the  
21 worse prison disciplinary records that I've seen in this case.  
22 He's been in jail about 25 years. He's had 28 separate  
23 disciplinary violations, many of which are quite severe.

24 So, in 1994, '95, he tried to stab a prison employee  
25 with three pens that he had tied together; he was 22 years old

*Proceedings*

10

1 at the time. The same year, three shanks were recovered from  
2 his cell in prison. In 1996, he stabbed another inmate in the  
3 chest with a sharp instrument; he was 24 years old at the  
4 time. In 1997, he stabbed another inmate with a six-inch  
5 sharpened plastic weapon; he was 25 years old at the time. In  
6 1998, a shank was found in his cell; he was 26 years old at  
7 the time. And in 2008, ten years later, he assaulted an  
8 officer. Now, admittedly, the facts of that are not as severe  
9 as that sounds because he threw a cup of hot water on this  
10 officer, but his cell was searched and they found a  
11 nine-inch-long homemade weapon; that was when he was 36.

12 So, when we look at this history, this is not  
13 somebody who jumps out as satisfying the Miller definition  
14 that his crime committed as a juvenile reflect the transient  
15 immaturity of youth. This is somebody whose conduct, stabbing  
16 other inmates, possessing dangerous weapons, continued for  
17 years beyond when he turned 18 and in one of the most highly  
18 controlled environments that he could be in, because he was  
19 largely in maximum security prison facilities during these  
20 times.

21 Three times during his incarceration, including as  
22 recently as 2009, the BOP recommended disciplinary transfers  
23 to move him to more secure facilities because they felt that  
24 the facilities that he was in were inadequate to provide  
25 sufficient control, and this is when he was already in maximum

1 security facilities.

2           Now, I will say, first of all, that the statements  
3 from the BOP counselor are quite commendable. He's  
4 essentially not had disciplinary incidents the last five or  
5 six years, nor anything that rises to a level of what I was  
6 talking about earlier, and he's to be commended for that.  
7 That's to his credit. But Miller is not about rewarding  
8 somebody simply for turning the corner. We expect people to  
9 behave in prison. We don't reward them for simply complying  
10 with the rules of the institution that they're in. And I  
11 think an important contrast, Your Honor, Joseph Wang, who was  
12 also a juvenile member of the Green Dragons who was with Mr.  
13 Wong that night and who also participated in shooting the  
14 victim, he's had one disciplinary incident in his 25 years in  
15 custody. That's a significant difference between somebody who  
16 claims could potentially reflect the transient immaturity of  
17 youth versus somebody who continued to engage in violent  
18 conduct for many, many years after he turned 18.

19           Now, I spent a lot of time, Your Honor, talking to a  
20 number of the victims in this case, and particularly the  
21 Gallivans, and I will tell you that writing the letters that  
22 they sent to you was so incredibly difficult for them. The  
23 sentencing was originally supposed to take place last fall and  
24 I first had the opportunity to speak with them last fall and I  
25 had a number of follow-up conversations with them. I provided

*Proceedings*

12

1 them with the sentencing submission, with Mr. Epstein's  
2 permission. I also provided them, at their request, with the  
3 psychological reports that were done on Mr. Wong that were  
4 filed under seal with this court, and again and again and  
5 again they kept asking me how do we know that his remorse is  
6 genuine; how do we know that he's a reformed individual; if he  
7 gets out, how do we know that he's not going to hurt some  
8 other family the way that we've been hurt?

9           And the letter, I think, from Tony Gallivan's wife  
10 was just so incredibly moving. It's so rare, I think, as a  
11 prosecutor, I certainly never had this experience before,  
12 where we see so starkly the consequences of some of the crimes  
13 that we prosecute, especially something 25 years after the  
14 fact. You know, Judge Raggi commented at sentencing that Tony  
15 Gallivan's wife's testimony about the murder was going to stay  
16 with her for quite some time. This letter that she submitted  
17 to the Court is going to stay with me for quite some time.

18           One thing I also want to bring to the Court's  
19 attention, there was one other case in this district where  
20 somebody was re-sentenced pursuant to Miller. That was a case  
21 in front of Judge Glasser in 2014. The defendant was named  
22 Dwayne Stone, and in that case, the defendant requested a  
23 40-year re-sentence, from life in prison to 40 years, and the  
24 Government did not object to that sentence. And, that was a  
25 scenario where a drug and gang member had killed a rival gang

*Proceedings*

13

1 member who was on his turf, had been in prison for about nine  
2 years at the time and, as Judge Glasser commented at  
3 sentencing, had had a largely quiet disciplinary history. He  
4 had one incident with a knife, but other than that, his  
5 disciplinary history had been exemplary. And I contrast that  
6 with this case where you have victims who engage in no  
7 criminal conduct, who were killed for reasons that had simply  
8 that they were eating in a restaurant that night or they  
9 refused to pay protection money that they shouldn't have had  
10 to pay, and contrast that with what happened in the Stone case  
11 and you have a situation where that defendant had a clean,  
12 relatively, disciplinary history and this defendant certainly  
13 did not.

14           And, so, for all those reasons, Your Honor, the  
15 Government is asking that the defendant be sentenced to life,  
16 notwithstanding the credit and the commendation that he  
17 certainly deserves for making efforts to try to change his  
18 life around and to having a cleaner record for the past number  
19 of years than he had for the prior number of years before  
20 that.

21           THE COURT: All right. Sir, I should note for the  
22 record before I turn to Mr. Wong I've read, of course, all the  
23 relevant portions of the trial testimony, as well as the  
24 original presentence report, as well as the minutes of Judge  
25 Raggi's sentencing proceeding, as you might expect.

*Proceedings*

14

1 All right. Mr. Wong, what would you like to say?

2 THE DEFENDANT: Your Honor, I -- I'm a little  
3 overwhelmed, so please bear with me.

4 THE COURT: Take your time. Speak into the  
5 microphone so I could hear you.

6 THE DEFENDANT: Hello?

7 THE COURT: Yes.

8 THE DEFENDANT: I understand why I'm here today. I  
9 am grateful that I have a chance to even speak to you today.  
10 But I first want to say something to the victims and the  
11 victims' family. I am sorry for the grief and sadness that I  
12 caused all those years ago, and I'm sorry that we're going to  
13 bring this up again after so long.

14 Your Honor, I'm not the same person that I was  
15 sentenced under Raggi. I have changed. Back then I was a  
16 reckless, immature, thoughtless young man that didn't really  
17 understand anything, and I didn't really understand the pain  
18 that I caused until my parents both died. That's when I start  
19 understanding the pain and the grief that I caused to the  
20 victims' family.

21 I understand what I did was wrong. I understand  
22 Miller is the reason now that we are before this court, but I  
23 started changing a long time before Miller. When I was in  
24 Marion and going through my parents' death, I started  
25 changing. I see my ways was wrong.

## Proceedings

15

1           Excuse me.

2           I am ashamed of what I done, sir. I know I  
3 embarrassed my family, my parents, the community. As a  
4 Chinese-American, first generation born, I embarrassed them.  
5 Instead of helping my community, I terrorized them, and I'll  
6 never forget that. Through it all, it was my family, the  
7 strength they gave me, I started this change and I seen what I  
8 tried to find in the street all along I had in my family.

9           Your Honor, I just want a second chance to prove to  
10 my family and to all the people that believe in me that they  
11 were right, that I was the person that Judge Raggi sentenced  
12 me to. I've been a burden to them for the last 25 years, my  
13 family and to the country. I would like to be an asset. My  
14 second half of my life, I would like to help them, the people  
15 that helped me.

16           I'm sorry.

17           THE COURT: It's all right.

18           THE DEFENDANT: Your Honor, if you give me a second  
19 chance, I know I have a duty to the people that concerns  
20 Miller, to my family, to all the counselors, all the doctors  
21 that helped me along the way, that didn't give up hope on me.  
22 I know I will do the right thing and I just ask for mercy,  
23 please.

24           I have so much other stuff I wanted to tell you.  
25 It's just hard to articulate myself. I just wish you could



*Proceedings*

16

1 see my heart is so pure that I have -- I feel so bad reading  
2 Ms. Gallivan's letter.

3 THE COURT: Takes your breath away, doesn't it?

4 THE DEFENDANT: Yes.

5 THE COURT: How someone can be so decent under those  
6 circumstances and so forgiving.

7 THE DEFENDANT: Yes.

8 THE COURT: Tells you something about them. Also  
9 tells you something, I suggest, about the people you killed  
10 and the quality of their lives.

11 THE DEFENDANT: I understand I ruined their lives,  
12 their family's lives, and I'll never forgive myself for that  
13 and I know whatever I say can't bring them back, but I can  
14 only change the future and try to do better.

15 THE COURT: Well -- I'm sorry, is he finished?

16 MR. EPSTEIN: I asked Mr. Wong the same question,  
17 Your Honor. I think he's finished.

18 THE COURT: Okay. I don't want to rush anybody.

19 Before we go any further, having been convicted at  
20 trial, I should remind Mr. Wong, not that I need to remind  
21 counsel, that he has a right to appeal my sentence, as does  
22 the Government, should either of you feel that I'm acting  
23 unreasonably. And of course the fees and expenses associated  
24 with that appeal, assuming you cannot afford them, would be  
25 paid by the court under the authority of the Criminal Justice

1 Act.

2 Well, this has been a struggle for everyone. Your  
3 lawyer has done a magnificent job of putting together a  
4 package of information and advocacy that puts you in the best  
5 possible light. Mr. Pravda's remarks, I've heard them before  
6 of course in writing, but I understand his need to state them  
7 by way of emphasis to the Court and to have a full record not  
8 only of the Government's bottom line, but of their thinking in  
9 it, because no one could take real issue with what the  
10 Government's to say. Or the letter I got from one of the  
11 families of the victims, who strenuously objected to any  
12 consideration in moderating your sentence, and who could blame  
13 them. I'm not talking about the grief that you caused. I'm  
14 talking about the grief that you're causing in their lives and  
15 continue to cause, probably to their last breath.

16 But it does warrant noting at the same time these  
17 letters that I received from others, a woman whose life you  
18 conspired to end in murder tells me, in no uncertain terms,  
19 that Alex Wong should have a chance to live a normal life and  
20 return to the society. I read it over and over again. Were  
21 it not otherwise consistent with what she said in the bulk of  
22 her letter, I would have assumed it was a typo. Imagine such  
23 a woman who brings that level of understanding to this case.

24 And of course the letter of Christine Gallivan we  
25 will all remember for a long, long time to come. I have

1 consulted with a number of my colleagues about this sentence  
2 and then I got this letter and I just, they all expressed  
3 their views, weren't all necessarily consistent, and I felt  
4 obligated to return to them after I got this letter. In a way  
5 it doesn't -- it just describes in very graphic terms the  
6 enormity of your conduct and the suffering and yet she says:  
7 "I find no joy in another human's suffering. I bear no anger  
8 or hate toward Alex Wong and his group. My desire is not  
9 about seeking revenge or restitution. It's about doing and  
10 getting the right result. I will leave Alex Wong to his god  
11 and me to mine."

12 I had to take a breath when I read that letter. As  
13 I said, it tells us a lot about Christine Gallivan. I suggest  
14 it tells us a lot about the man you murdered.

15 So, there's not going to be any rewarding here, with  
16 all due respect, Mr. Pravda. He's not going to be rewarded.  
17 The exercise is just punishment and the just sentence and  
18 measuring fairly his level of culpability. We know he's  
19 culpable. You weren't a child at age 16. You knew what you  
20 were doing. It's not like some little two year old who sticks  
21 his finger in the light socket not knowing what's going to  
22 happen. You knew what you were doing and it's hard to be  
23 sympathetic.

24 And everything you've done since that program,  
25 E-CODE I think it's called.

*Proceedings*

19

1 MR. EPSTEIN: Yes.

2 THE COURT: I take note of.

3 As Judge Raggi noted, the potential was there and  
4 now we've seen the manifestation to some extent of that  
5 potential, but in a way, it doesn't matter. I don't care, at  
6 some length, because that's how you spent your time. Good for  
7 you, you made good use of your time. It has some relevance I  
8 suggest on the question that Christina Gallivan answers her  
9 letter with: "Can we be sure that if given any consideration  
10 by this court you won't visit this callus, senseless, wanton  
11 violence on someone else?" And you know what the answer is?  
12 No, we can't. We can't.

13 Judge Raggi didn't have the record I have and she  
14 was not prepared, although receptive to the argument to her  
15 credit, not prepared to take the gamble. Am I going to  
16 gamble? You bet. You bet you I'm going to gamble. I have a  
17 little more information than Judge Raggi had. I have a lot  
18 more information. And in that sense, what you've done since  
19 E-CODE suggests to me that you have the intelligence, no  
20 question. You have the motivation, it seems so. Whether you  
21 have the strength of character and the discipline that you  
22 didn't have then to live a law-abiding life under difficult  
23 circumstances, let's face it, once you're out, I don't know.  
24 Your activities suggest that perhaps you do, and I note that  
25 most of them were undertaken before you had any hope of having

1 this sentence revisited. I take note of that.

2 What I want to focus on is culpability. Not what  
3 you've done. Good for you, you made good use of your time.  
4 How do we measure your culpability? Because the science has  
5 progressed, as everyone acknowledges, even to their credit,  
6 the science has progressed. As the Supreme Court said:  
7 "Mandatory life without parole for a juvenile precludes  
8 consideration of his chronological age and its hallmark  
9 features. Among them are maturity, impetuosity and failure to  
10 appreciate risks and consequences. It prevents taking into  
11 account the family and home environment that surrounds him."

12 Well, that's an apt statement in this case because I  
13 have to take into consideration the whole picture, and I take  
14 note of the fact that at the age of 13 or 14, you were  
15 recruited into what may be characterized as your first family.  
16 I mean no disrespect to your father or your mother. Your  
17 father, from everything I gather, was a hard-working man who  
18 did everything he could to provide for you, and you in turn,  
19 for your earlier years, were a good student, did everything  
20 you were supposed to do, and then you went astray at a young  
21 age and took this turn, took this turn.

22 So, as I say, the science seems to be  
23 well-established at this point. Doesn't necessarily mean, of  
24 course, that these general statements about the maturity of  
25 the human mind, the abilities of adolescents and young adults

1 and indeed even people in their early 20s to fully appreciate  
2 the consequences of their actions, to fully assess the  
3 seriousness of their conduct, to resist the urging of peers  
4 and their so-called adult supervisors. The science tells us  
5 that that's a gradual process and that people at young ages  
6 have not yet developed fully to that point. You're not 14, as  
7 the defendants in Miller. You were 16, 16-and-a-half. There  
8 are others doing life who were just over that 18 year mark.  
9 Mr. Pravda mentions that in his letter. I must say it  
10 troubles me. It troubles me.

11           So, the question is how do we justly assess your  
12 level of culpability at that time, given the science as we  
13 know it now? And I and my colleagues had great difficulty and  
14 long conversations about it, and to that extent, we looked to  
15 what you've done, both good and bad, you went into the prison  
16 population. You were the hellion you were with when you went  
17 into that restaurant, and you were for some time. But there  
18 was a change. There was a change, quite markedly, ultimately,  
19 a significant change. And it does give us hope that although  
20 you perhaps did not fully comprehend and assess the full range  
21 of consequences of what you did, that the maturity that you  
22 present with now is real and the restraint that you claim to  
23 be capable of is real.

24           With that in view, I will moderate the sentence. I  
25 will moderate the sentence, although I must say I do it with a

1 lot of difficulty. These crimes were just horrid.

2 And reading these victims' letters, the few that we  
3 have, some we couldn't contact from what the Government tells  
4 me, just tears at your heart, tears at your heart. And I hope  
5 they don't misinterpret it. They've been generous in what  
6 they've said and the license, if you will, that they've given  
7 me. I don't regard it as license.

8 I'm satisfied that you're remorseful, and I hope  
9 that remorse is enough to motivate you when you need it.  
10 James Gallivan's letter, brother of the deceased - these are  
11 tremendous people - he concludes: "I'm glad I do not have to  
12 make that decision." Well, I do, and I do it with great  
13 difficulty.

14 I'm going to impose a sentence of 35 years on Counts  
15 1 and 2 to run concurrently ten years, technically speaking,  
16 on count, I think it's Count 14. Is it not?

17 Same special assessment, of course. No fine.

18 Now, that's just the beginning. I condition you  
19 have five years supervised release on Counts 1 and 2 with  
20 three years on Count 14 to run concurrently. That's just the  
21 beginning. I want as a condition of your supervised release  
22 strict compliance with a program of therapy, counseling,  
23 whether it be for drugs, anger, job qualifications, whatever  
24 it is.

25 You're going to go on a very short leash. You

*Proceedings*

23

1 understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: You pull at that leash and disappoint  
4 me, I will not hesitate for one minute to admit I made a  
5 mistake.

6 You understand what I'm saying?

7 THE DEFENDANT: I won't let you down, Your Honor.

8 THE COURT: Don't let them down. Don't let the  
9 folks behind you down, your community that you should have  
10 served. I'm warning you.

11 The conditions of supervised release are full  
12 remedial program including counseling of whatever sort the  
13 Court shall deem appropriate in consultation with the  
14 Probation Department. And to the extent you become able at  
15 some point in the future, as I trust you will if your  
16 representations and undertakings are sincere, able to  
17 contribute to the cost of it, you do just that. And in that  
18 regard, I will require you to make full financial disclosure  
19 to the court when requested.

20 You know, my only -- one of the heaviest weights I  
21 take back to chambers is there are a lot of young men in a lot  
22 of communities, not just the Asian-American community, a lot  
23 of young men, and, you know, my greatest fear is that they  
24 will misread what I've done today. You were a youngster. You  
25 were dumb, stupid and violent. You've grown up, I trust.



*Proceedings*

24

1 Find a way sometime to do what you can to convince these young  
2 people about where to turn and how. If you really want to  
3 make amends, save some lives.

4 Anything else?

5 MR. PRAVDA: Not from the Government, Your Honor.

6 Thank you.

7 MR. EPSTEIN: No, Your Honor. Thank you, very much.

8 (Defendant remanded.)

9 (Time noted: 12:48 p.m.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25